

83-46-1

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April 26, 1983

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Mr. John A. Minichiello, Chief
Bureau of Hazardous Waste Management
Division of Public Health Services
Office of Waste Management
Hazen Drive
Concord, New Hampshire 03301

Re: Minimum Qualifications for Consultants

Dear Mr. Minichiello:

By memorandum of April 4, 1983 to Ed Cross, you requested a determination of whether or not RSA 147-A authorizes the Bureau of Hazardous Waste Management (Bureau) to adopt regulations establishing minimum qualifications for consultants hired by the Bureau to oversee hazardous waste cleanup operations at uncontrolled sites. Based on our review of RSA 147-A, it is our conclusion that the Bureau has the authority to adopt such regulations.

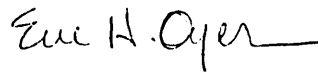
RSA 147-A:13,II expressly authorizes the Bureau to contract for, and supervise the cleanup of, a hazardous waste spill which the Bureau determines is an imminent hazard to human health or the environment. The Bureau may therefore hire such consultants and contractors as may be necessary to cleanup an uncontrolled site where hazardous wastes have been spilled. The Bureau need not, however, hire any consultant or contractor that is not qualified and capable of doing the work required by the Bureau. Furthermore, under RSA 147-A:3,III, the Bureau is expressly authorized to adopt rules relative to "standards and procedures for the safe operation and maintenance of hazardous waste facilities, including qualifications required for personnel of hazardous waste facilities." Since the term "facility" has been defined by RSA 147-A:2,IV as "a location at which hazardous waste is subjected to treatment, storage or disposal", persons engaged by the Bureau to cleanup or supervise the cleanup of a location where hazardous wastes have been disposed of are personnel of a hazardous waste facility within the meaning of RSA 147-A:3,III.



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Based on these statutory provisions, it is our conclusion that the Bureau may adopt rules establishing minimum qualifications for consultants and contractors hired by the Bureau under RSA 147-A:13,II. Please do not hesitate to call if you have any further questions on this matter.

Yours truly,



Eve H. Oyer
Attorney
Environmental Protection Div.

EHO/clf

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